

EXHIBIT 10

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE SULFURIC ACID)
ANTITRUST LITIGATION) MDL DOCKET NO. 1536
-----) CASE NO. 03 C 4576
THIS DOCUMENT RELATES TO:)
ALL RELATED ACTIONS)

The deposition of DEAN LARSON, called
for examination, taken pursuant to the Federal
Rules of Civil Procedure of the United States
District Courts pertaining to the taking of
depositions, taken before ELLEN DUSZA, CSR No.
84-3386, a Notary Public within and for the County
of Cook, State of Illinois, and a Certified
Shorthand Reporter of said state, at Suite 1111,
55 West Monroe Street, Chicago, Illinois, on the
23rd day of June, A.D. 2005, at 9:34 a.m.

<p>1 A. We've actually -- since I've been -- I 2 don't know why I said "Today?" because since I've 3 been with the company, we've had the same 4 operations: Buffalo, New York; Chicago, Illinois; 5 and the Copley, Ohio facility. 6 Q. And when you say "facility," what do you 7 mean by that? 8 A. The Copley, Ohio location is a very 9 large terminaling operation. We have storage for 10 5,000 tons of sulfuric acid, 2,000 tons of 11 hydrochloric acid and various other distribution 12 items. 13 Q. And Chicago? 14 A. Chicago is a plant that burns sulfur to 15 make sulfuric acid as well as like ten other 16 derivative products of sulfur. 17 Q. Buffalo? 18 A. Buffalo is also a sulfur-burning plant 19 that, again, makes about a half dozen different 20 sulfur derivatives. It also has what's called 21 region capability where we work with oil 22 refineries, bring in their spent sulfuric acid, 23 regenerate it and deliver back to them a fresh 24 sulfuric acid.</p>	<p>10 1 Q. And do you know who it was purchased 2 from? 3 A. 3M Corporation. 4 Q. And what year was that facility built, 5 do you know? 6 A. The facility itself was very old. I 7 believe the acid plant was built maybe in the early 8 '70s, something like that. I'm not sure. I can't 9 give you an exact. 10 Q. And how about was there ever a 11 production facility in Bay City, Michigan? 12 A. Yes, there was. I apologize. 13 Q. When was that in operation? 14 A. I honestly don't know. I was not 15 involved in that operation at all. The reason 16 being, we were set up geographically, so my 17 operation was Ohio and the surrounding area, 18 Pennsylvania, et cetera, so I did not sell for that 19 plant nor did I get involved with that. 20 Q. Are you aware -- do you have any 21 knowledge of that plant? 22 A. Yeah, I am aware that we had a plant in 23 Bay City, Michigan. It was a very, very small 24 plant. I think it was around 30 tons a year.</p>
<p>11 1 Q. What is the capacity of Buffalo as far 2 as sulfuric acid? 3 A. Roughly 170 tons a day. 4 Q. And Chicago? 5 A. Roughly 300 tons a day. 6 Q. And how about Copley? 7 A. Zero. When it was running, it was about 8 a 45 or 50,000 ton a year plant, so that would 9 probably be about 150 tons a day, roughly. Not 10 quite that high. A very small plant. 11 Q. And while you were with PVS, is there 12 any other sulfuric acid production facilities? 13 A. We have two in Europe, but I'm not 14 involved with those at all. 15 Q. And you said that Copley in the present 16 day is just a terminal for sulfuric acid? 17 A. Correct. 18 Q. And at some point in time it used to 19 produce sulfuric acid? 20 A. Correct. 21 Q. When was it producing sulfuric acid? 22 A. We bought Copley prior to my getting 23 there in 1983, and it ran from 1983 until it was 24 shut down, I believe, in 1988.</p>	<p>13 1 Q. And that no longer -- is that plant 2 still owned by PVS? 3 A. That plant is shut down. I don't know 4 if we own the property there or what at this point. 5 Q. Do you have any idea when the Bay City 6 plant was shut down? 7 A. Yeah, it shut down after the Copley 8 plant. 9 Q. What year did the Copley plant shut 10 down? 11 A. I believe it was '88. 12 Q. How long, if you recollect, after the 13 Copley plant -- 14 A. I think it was two years. 15 Q. So around '90 or so? 16 A. Around '90. 17 Q. And is there a facility referred to as 18 Nolwood? 19 A. Yes. PVS Nolwood is our distribution 20 company in Detroit, Michigan. 21 Q. So there wasn't any manufacturing 22 facilities in Detroit? 23 A. Again, we were set up geographically, so 24 the Bay City production facility would have come</p>

<p>14</p> <p>1 under the direction of the PVS Nolwood group.</p> <p>2 Q. So would Bay City have been referred to</p> <p>3 as Nolwood?</p> <p>4 A. It would have been the Bay City plant of</p> <p>5 PVS Nolwood, I guess.</p> <p>6 Q. And these different locations, are</p> <p>7 they -- of these plants that we've been talking</p> <p>8 about, are they owned by different divisions or</p> <p>9 subsidiaries of PVS?</p> <p>10 MR. NORDAHL: Object to the form.</p> <p>11 THE WITNESS: I'm sorry?</p> <p>12 MR. NORDAHL: I objected to the form. You can</p> <p>13 go ahead and answer.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Yeah, it was set up as PVS Ohio. We</p> <p>16 have a PVS New York, a PVS Illinois and PVS</p> <p>17 Nolwood. They were all set up, with the exception</p> <p>18 of Nolwood, as geographically titled.</p> <p>19 BY MR. BELL:</p> <p>20 Q. I'm sorry, what do you mean</p> <p>21 "geographically titled"?</p> <p>22 A. Ohio, New York, Illinois. PVS Illinois,</p> <p>23 I mean that was the creative name we came up with.</p> <p>24 Q. But Nolwood was a Detroit facility?</p>	<p>16</p> <p>1 Q. Is Mr. Nicholson, would you consider him</p> <p>2 the head of all these PVS operations we've been</p> <p>3 discussing?</p> <p>4 MR. HAMILTON: I'll object to the form with</p> <p>5 respect to considering him the head.</p> <p>6 If you understand the question, go ahead</p> <p>7 and answer.</p> <p>8 BY THE WITNESS:</p> <p>9 A. He signs my paycheck.</p> <p>10 BY MR. BELL:</p> <p>11 Q. Is Mr. Nicholson involved in the</p> <p>12 day-to-day operations?</p> <p>13 A. No. I mean yes and no. He knows enough</p> <p>14 about our business to be aware of what's going on,</p> <p>15 but he's very, very involved with civic things and</p> <p>16 actually politics in the state of Michigan and the</p> <p>17 city of Detroit, et cetera.</p> <p>18 Q. As far as decision making with PVS, is</p> <p>19 there someone that you are aware of that would</p> <p>20 be -- have rank over Mr. Nicholson?</p> <p>21 A. No.</p> <p>22 Q. Now, at some point you mentioned the</p> <p>23 Copley facility stopped manufacturing sulfuric</p> <p>24 acid.</p>
<p>15</p> <p>1 A. Yes.</p> <p>2 Q. But it wasn't referred to as Detroit.</p> <p>3 Anyways, who did you -- while you</p> <p>4 were -- was it vice president of the Copley</p> <p>5 facility?</p> <p>6 A. Actually president.</p> <p>7 Q. I'm sorry.</p> <p>8 When you were president, who did you</p> <p>9 report to within PVS?</p> <p>10 A. A gentleman by the name of Bob Olson.</p> <p>11 Q. And what was Bob Olson's position?</p> <p>12 A. He was a corporate VP.</p> <p>13 Q. Where was he --</p> <p>14 A. Out of Detroit.</p> <p>15 Q. -- located?</p> <p>16 And who did Mr. Olson report to?</p> <p>17 A. Jim Nicholson.</p> <p>18 Q. Who is Jim Nicholson?</p> <p>19 A. He's our CEO.</p> <p>20 Q. And how long has Mr. Nicholson been the</p> <p>21 CEO?</p> <p>22 A. Since I've been there, so -- it's a</p> <p>23 family company. I believe probably five years</p> <p>24 before I got there, at least.</p>	<p>17</p> <p>1 A. Correct.</p> <p>2 Q. How did that come about?</p> <p>3 A. The Copley facility was a very small --</p> <p>4 by acid plant standards, a very small sulfuric acid</p> <p>5 producing plant. To give a tiny bit of background,</p> <p>6 the plant, its biggest problem was that it did not</p> <p>7 make eight or ten different products as my other</p> <p>8 plants did, it made only 66 degree sulfuric acid.</p> <p>9 The plant had been struggling for a long period of</p> <p>10 time because our raw material costs to produce</p> <p>11 sulfuric acid were very high and the plant was a</p> <p>12 money-losing plant.</p> <p>13 Q. And what are the raw material costs of</p> <p>14 producing sulfuric acid?</p> <p>15 A. The biggest component is sulfur.</p> <p>16 (WHEREUPON, Ms. Mary Jane Fait</p> <p>17 entered the deposition proceedings.)</p> <p>18 BY MR. BELL:</p> <p>19 Q. And is there -- to get a rough</p> <p>20 indication of the costs, would it be about a third</p> <p>21 of the price of the sulfur --</p> <p>22 A. Yeah, you make three tons of sulfuric</p> <p>23 acid for every ton of sulfur.</p> <p>24 Q. Is that the main price component?</p>

<p>1 A. Yeah. As I said, I was updated as to 2 the status. They would come to me and ask where we 3 were at with our business at the time, our cost of 4 production, and obviously their intention was to 5 see if they could help me out. 6 Q. And were you involved at all in PVS's 7 decision whether to go with Noranda for supply at 8 the Copley facility? 9 A. Yes, of course. 10 Q. What was your involvement in the 11 decision-making process? 12 A. I mean we laid out two scenarios. One 13 scenario was do we continue to make sulfuric acid 14 and the other scenario is do we buy it. We looked 15 at the options available to us and basically voiced 16 our opinions as to whether it made more sense to 17 purchase product in the market or continue to 18 operate the plant. 19 Q. And who initiated the negotiations or -- 20 between Noranda and PVS for supply to Copley? 21 MR. NORDAHL: I'm sorry, Theo, but could you 22 speak up a little? 23 MR. BELL: Yeah. 24 BY MR. BELL:</p>	<p>30 1 know? 2 A. He joined us probably, my guess would 3 be, somewhere '86 to '87. I believe '86. 4 Q. And when did the negotiations for 5 Noranda's supply of sulfuric acid to Copley, when 6 did those first begin? 7 A. I do not know the exact time frame when 8 that began. It was a long time ago. 9 Q. Do you have an approximation? 10 A. I'm trying to remember. We shut the 11 plant down in 1988, so I assume it would have 12 been -- I don't know. I assume it would have been 13 in '87. I don't know. 14 Q. And prior to any contact with Noranda 15 regarding obtaining supply for the PVS Copley 16 facility, was PVS going through the process of 17 shutting down that plant? 18 A. No. What we were doing was going 19 through a decision-making mode, "Do we keep a 20 losing plant operational?" The plant -- the basic 21 rule of capitalism is you need to produce a product 22 for less money than you sell it for, and we were 23 producing it at a higher cost than what we were 24 able to obtain in the marketplace, so we were</p>
<p>31 1 Q. Who initiated the negotiations between 2 Noranda and PVS for supply to Copley? 3 MR. HAMILTON: I'll object to the lack of 4 foundation. 5 If you know the answer, go ahead and 6 respond. 7 MR. NORDAHL: I'll object, lack of foundation 8 as well. 9 BY THE WITNESS: 10 A. I do not know the answer as to who 11 approached who. Frank Biermann came to us from 12 another company and he had known Steve Skurnac from 13 his prior job, so obviously they reconnected at 14 some point. Who called who first. I couldn't tell 15 you that. 16 BY MR. BELL: 17 Q. And where was Frank Biermann previously 18 employed? 19 A. General Chemical. 20 Q. And it's your understanding that 21 Mr. Biermann had dealings with Mr. Skurnac? 22 A. I do not know that. He was a product 23 manager at General Chemical prior to joining us. 24 Q. When did Mr. Biermann join you, do you</p>	<p>33 1 losing money. 2 Q. And did you say that the Copley plant 3 was not involved in distribution of any other 4 products than sulfuric acid? 5 A. At that time Copley produced and sold 6 sulfuric acid only. 7 Q. It didn't market any other products, 8 sulfur-based products? 9 A. No other sulfur-based products, correct. 10 Q. Before the discussions between Noranda 11 and PVS for the Copley supply, were there any other 12 dealings between Noranda and PVS prior to that? 13 MR. NORDAHL: Object to the form of the 14 question, vague. 15 BY THE WITNESS: 16 A. Not that I'm aware of. 17 BY MR. BELL: 18 Q. Was there any business at PVS that was 19 Noranda? 20 MR. NORDAHL: Same objection. 21 BY MR. BELL: 22 Q. To your knowledge, the first contact 23 with Noranda was involving supply to the Copley 24 plant, would that be fair to say?</p>

<p style="text-align: right;">34</p> <p>1 A. Again, I don't know what Frank and Steve 2 Skurnac talked about the first time they spoke 3 after he came to PVS. It could have been anything. 4 I have no idea. 5 Q. And during that process during the 6 negotiations between PVS and Noranda for the Copley 7 supply, do you know -- to your knowledge, did 8 Noranda ever just make an offer and say, Come to 9 PVS. We have acid at X price. Do you want -- if 10 you want to buy it? 11 MR. NORDAHL: Objection, lacks foundation. 12 BY THE WITNESS: 13 A. No, not to my knowledge. 14 BY MR. BELL: 15 Q. How involved were the negotiations for 16 the Copley supply between Noranda and PVS? 17 A. Again, I wasn't involved. 18 Obviously, they were -- how involved 19 were they? I don't understand the question. They 20 were obviously involved because we ended up doing a 21 deal with them. 22 Q. I'm trying to get at what time frame 23 these discussion or negotiations took place, over 24 what period of time. Was it a relatively short</p>	<p style="text-align: right;">36</p> <p>1 Q. And how about PVS's other manufacturing 2 facilities, were they profitable as far as sulfuric 3 acid? 4 A. They were -- 5 Q. Back at that time? 6 A. You have to understand the businesses. 7 They had more options than the Copley facility. 8 The Copley facility only made commodity grade 9 sulfuric acid. The New York facility did what's 10 called regeneration. We worked with a refinery, 11 and we would take their spent, process it and sell 12 them back regenerated sulfuric acid. The New York 13 plant also made high purity, ultra high purity 14 sulfuric acid, whereas a commodities sulfuric acid 15 sells for a couple cents a pound, the ultra high 16 purity sulfuric acid sells in the semiconductor 17 industry at 14, 15 cents a pound. We also made 18 products called ammonium thiosulfate. All these 19 products are what we call value-added sulfur 20 products. So the New York operation and the 21 Chicago operation both had more options than what 22 we did. 23 Q. And was -- could Copley change the 24 products it manufactured back at that time or</p>
<p style="text-align: right;">35</p> <p>1 period of time, was it a long, drawn out process of 2 negotiation? 3 MR. HAMILTON: Well, for the record, I'll 4 object to the lack of foundation as well as to the 5 form. I don't know in what context, it's simply 6 raw time can be gauged that way. 7 But to the extent you know, Mr. Larson, 8 and you understand the question, you can answer it 9 to the best of your ability. 10 BY THE WITNESS: 11 A. I don't know. We -- as PVS Chemicals 12 were looking at a make-or-buy decision, and, again, 13 my dates are slightly fuzzy, but I know Frank 14 Biermann had written a memo internally saying 15 here's what it's costing -- here's what the 16 situation is in Ohio. We're losing money. It's a 17 very marginal operation at best, and there are 18 options out there because there -- ours is a 19 significant amount of product available, that we 20 could buy cheaper than what we could make it, and 21 we should look at long-term entering into a 22 decision whether we should continue to produce or 23 whether we should buy product. 24 BY MR. BELL:</p>	<p>1 there any -- 2 A. It would be huge capital. Any time you 3 entered into a new product line, there's, A, 4 significant capital investment; and B, if there's 5 not a demand for that product in your region, you 6 don't produce it. 7 Q. The high purity that you mentioned, 8 would that be difficult to change over from the 9 commodity sulfur? 10 A. Very, very difficult. 11 Q. Why is that? 12 A. Because whereas a traditional sulfuric 13 acid plant uses carbon steel and stainless steel, 14 asbestos, materials of construction, the ultra high 15 purity uses very, very high tech glass columns and 16 Teflon columns. You're talking half a million to 17 three-quarters of a million to put in a very small 18 distilling-type unit to produce that. 19 Q. When -- 20 A. And plus we were producing it at one 21 plant. There wasn't a demand for us to produce it 22 at another plant. 23 Q. Did PVS actually evaluate other 24 production options at Copley before making a</p>

<p>38</p> <p>1 decision to shut it down?</p> <p>2 MR. HAMILTON: Theo, when you say "other</p> <p>3 production options," are you referring to the</p> <p>4 prospect of using the facility to make other</p> <p>5 sulfur-based products?</p> <p>6 MR. BELL: Yeah, sulfur-based products or any</p> <p>7 other products.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Sure. It was my job, obviously, to look</p> <p>10 at whatever we could do to generate more revenue</p> <p>11 for that plant. So did we look at others? I'm</p> <p>12 sure we did. If you ask me specifically what they</p> <p>13 were, I can't tell you today. I mean I</p> <p>14 constantly -- with the two plants I have left,</p> <p>15 I'm constantly evaluating new products and new</p> <p>16 markets to go into. For every 50 I look at, I may</p> <p>17 do one.</p> <p>18 Q. How about regeneration, was that</p> <p>19 something that could be looked at at Copley?</p> <p>20 A. No, you need a refinery close by.</p> <p>21 There's no refineries that require regeneration</p> <p>22 that didn't have it.</p> <p>23 Q. How about a change of rather than making</p> <p>24 sulfuric acid from sulfur, how about was there</p>	<p>40</p> <p>1 Inherent in that ore is some sulfur, and sulfur</p> <p>2 goes out the stack as SO₂ gas. Over the years,</p> <p>3 legislation has said you can't send it out the</p> <p>4 stack. So they basically built an acid plant</p> <p>5 attached to their smelting unit, so they derive</p> <p>6 their acid by recovering that SO₂ and putting it</p> <p>7 through the same process that we do, but the</p> <p>8 difference is I have to pay for my sulfur and their</p> <p>9 sulfur in the form of sulfur dioxide gas is a</p> <p>10 by-product of their primary business.</p> <p>11 Q. And a by-product -- so they don't have a</p> <p>12 lot of capital costs in producing sulfuric acid?</p> <p>13 MR. NORDAHL: Object, lacks foundation.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I can't even speculate as to what their</p> <p>16 capital costs are.</p> <p>17 BY MR. BELL:</p> <p>18 Q. Do you believe it's less than</p> <p>19 manufacturing it from burning sulfur?</p> <p>20 MR. NORDAHL: Object to the form, also</p> <p>21 foundation.</p> <p>22 MR. HAMILTON: Let me ask you, Theo, for my</p> <p>23 own -- are you referring specifically --</p> <p>24 MR. BELL: If you have an objection, make your</p>
<p>39</p> <p>1 other feedstocks that could be used?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. Could you make it from less pure acid or</p> <p>4 from smelter acid?</p> <p>5 A. No, because -- you're making acid.</p> <p>6 MR. NORDAHL: Object to the form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. The only way to make acid is with sulfur</p> <p>9 in a sulfur-burning plant.</p> <p>10 BY MR. BELL:</p> <p>11 Q. How is Noranda's acid manufactured?</p> <p>12 MR. NORDAHL: Objection, lack of foundation.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I can't tell you how their acid is</p> <p>15 manufactured. I can give you my real quick</p> <p>16 summation of the difference between smelter acid</p> <p>17 and our acid. Ours starts with sulfur to derive</p> <p>18 sulfur dioxide, and then we put it through a series</p> <p>19 of chemical reactions, if you will, and we end up</p> <p>20 with sulfuric acid.</p> <p>21 Noranda, instead of starting -- not</p> <p>22 Noranda, any by-product producer, instead of</p> <p>23 starting with sulfur, they're smelting an ore,</p> <p>24 whether it's to generate copper or nickel or zinc.</p>	<p>41</p> <p>1 objection.</p> <p>2 MR. HAMILTON: I don't know if I do or not.</p> <p>3 That's what I want to ask.</p> <p>4 Are you asking the question with respect</p> <p>5 to Noranda or involuntary sulfuric acid production</p> <p>6 in general?</p> <p>7 MR. BELL: I was asking with respect to</p> <p>8 Noranda's process, but if he knows --</p> <p>9 MR. HAMILTON: I'll object to the lack of</p> <p>10 foundation as to Noranda.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I don't have any basis to understand or</p> <p>13 speculate as to how another company would value it</p> <p>14 cost or what it is or what it isn't. I know what</p> <p>15 mine is. That's all I can answer.</p> <p>16 BY MR. BELL:</p> <p>17 Q. Do you have an understanding of the</p> <p>18 economics of the involuntary produced acid?</p> <p>19 A. No. I don't have an understanding as to</p> <p>20 the economics. What I have an understanding is</p> <p>21 that their primary product is a metal which is sold</p> <p>22 for whatever it's sold for. The resultant</p> <p>23 co-product is sulfuric acid, which is produced</p> <p>24 because it has to be produced. The understanding</p>

<p>1 is that they're going to make as much sulfuric acid 2 as the plant will make, but what they're really 3 trying to make is that and metal, whether it's 4 copper, nickel, zinc, lead, you tell me. 5 Q. To your understanding, can a smelter 6 such as Noranda, could they control their 7 production of sulfuric acid? 8 MR. NORDAHL: Objection, lacks foundation. 9 BY THE WITNESS: 10 A. Only to the extent that they control the 11 amount of primary product that they're making. 12 BY MR. BELL: 13 Q. As far as when you're evaluating 14 Copley's options back in the '87 time period, was 15 there anyone else involved in making the evaluation 16 other than yourself? 17 A. Yeah, myself, Frank Biermann, Bob Olson. 18 Q. And who was getting the information -- 19 I'm just trying to get an idea of the hierarchy in 20 that process. 21 A. The hierarchy was I was on the bottom, 22 Frank was more parallel to me because he was the 23 marketing guy, and Bob Olson, we both reported to 24 Bob, so...</p>	<p>42 1 Q. Are you aware of any documentation that 2 indicates these losses that you're speaking about 3 that Copley was experiencing back in '87? 4 A. Am I aware that any still exists today? 5 I don't know. It was a long time ago. 6 Q. Did you see anything while preparing for 7 today? 8 A. Just a couple memos. One from Frank 9 Biermann basically discussing the make-or-buy 10 decision that we should look at, the fact that it 11 was costing a certain amount to make the product. 12 Q. Back in that time frame, '87, was PVS 13 aware of an oversupply of this smelter acid, 14 whether from Noranda or anywhere else that would be 15 coming out of Canada or anywhere else? 16 A. Again, the years run together here, but 17 PVS was certainly aware that -- I mean we were 18 competing against smelter acid coming out of 19 Monaca, Pennsylvania. There's a smelter there 20 called Zinc Corporation. I'm not sure if that's 21 what it was called at the time, but they made a lot 22 of sulfuric acid as a by-product right there, and 23 that was a lot of the product we were competing 24 against. We were also competing against smelter</p>
<p>43 1 On a typical month I would look at the 2 profit and loss statement. You have on this side 3 of the ledger all my costs, my labor, my overhead, 4 my electricity, my utilities, my cost of sulfur, 5 et cetera, et cetera, et cetera, and then on this 6 side of the equation you had the sales, and so I 7 would -- my costs versus my sales. That's how we 8 did the evaluation. 9 Q. In the 1987 time period, how long was 10 Copley operating unprofitably, as you say? 11 A. Copley had been operating marginally 12 profitably or unprofitably probably for 13 two-and-a-half, three years. Since we bought 14 the plant it never really turned a profit. if you 15 will. 16 Q. Can you quantify how much it was running 17 in the red back in that time period? In other 18 words, can you quantify the losses that you're 19 claiming that the operations were undergoing? 20 A. I mean I can't give you those numbers. 21 I don't recall what those numbers were. I know we 22 were losing on a real basis a few dollars per ton 23 on every ton we sold. We were not covering our 24 overhead.</p>	<p>44 1 product that was being sold by a company called 2 CIL, which evolved into Marsulex and Chemtrader 3 somehow. 4 Q. Did PVS ever market the production 5 coming out of Monaca that you just mentioned? 6 A. Yes. 7 Q. When did that begin? 8 A. About 1993, I believe, is my best guess. 9 Q. And you mentioned CIL and Marsulex. 10 That's a Canadian company? 11 A. Correct. 12 Q. And they were manufacturing smelter acid 13 out of Canada? 14 A. Correct. 15 Q. My question originally was was PVS aware 16 back if '87 of a surplus or -- 17 A. Yeah. 18 Q. -- an influx of Canadian smelter acid 19 that was expected that would be coming into the US 20 market? 21 A. Not that was expected, that was already 22 there. That was the material we competed against 23 day in and day out, the material out of Monaca and 24 CIL, and all of that was by-product.</p>

<p>1 Prior to that time frame, I had never 2 heard of Noranda. I mean they were not active in 3 the United States that I'm aware of.</p> <p>4 Q. Are you aware of Noranda ever informing 5 PVS that this Canadian acid, due to the increased 6 SO2 environmental regulations, would be -- a 7 certain amount of tonnage would be expected and 8 would be coming into the US market?</p> <p>9 MR. NORDAHL: Object to the form of the 10 question. It also lacks foundation.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I mean we were in our discussions with 13 Noranda aware that they would be having more acid 14 being produced at a later day, yeah.</p> <p>15 BY MR. BELL:</p> <p>16 Q. And did Noranda ever indicate to you 17 that it was going to be bringing this surplus 18 Canadian acid, smelter acid, into PVS's markets 19 during the negotiations?</p> <p>20 MR. NORDAHL: Object to the form as well.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Do you mean like a threat? I'm not 23 understanding your question.</p> <p>24 BY MR. BELL:</p>	<p>46</p> <p>1 Q. Did you have any other discussions with 2 smelter producers at that time about supply?</p> <p>3 A. Yes.</p> <p>4 Q. What other smelters did you speak with 5 or negotiate with?</p> <p>6 A. At the time I believe we were talking to 7 Kennecott and Phelps Dodge.</p> <p>8 Q. And Kennecott and -- and these 9 negotiations with Kennecott?</p> <p>10 A. They were not negotiations. They were 11 discussions. I believe that our Chicago plant, 12 which always bought some acid, they actually 13 produced -- they actually sold more than what we 14 could produce, so I believe Chicago was actually 15 buying from Kennecott, not on a big, long 16 contractual thing, but they were buying material 17 from them?</p> <p>18 Q. And Kennecott, Phelps Dodge, they had 19 discussions specifically with the Copley operation 20 or --</p> <p>21 A. No, but they were certainly an option 22 when we were looking at a make-or-buy decision. 23 Who do we talk to? There's Phelps Dodge, there's 24 Kennecott, there's Noranda.</p> <p>48</p>
<p>47</p> <p>1 Q. Whether they indicated at all whether 2 it's a threat or not, I'm just -- during the 3 negotiations, was that ever indicated by Noranda?</p> <p>4 MR. NORDAHL: Object to the form of the 5 question.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Not that I know of.</p> <p>8 BY MR. BELL:</p> <p>9 Q. Did you consider when you were doing 10 your make-or-buy analysis what the impact of the 11 Noranda acid that was expected to come into the US 12 market at that time or shortly thereafter, after 13 1987, did you take that into consideration on 14 Copley's ability to survive or make a profit?</p> <p>15 A. Not on the Noranda. Again, I'll go back 16 a second just on smelter acid in general. At that 17 time in the US, there was a lot, a lot, a lot of 18 smelter acid available anywhere. Kennecott in Utah 19 was making a lot of acid, Phelps Dodge in Arizona 20 was making a lot of acid, Cypress Mines was making 21 a lot of acid, and the relevance of that is that 22 that is what we call fatal acid, so we were aware 23 that it was out there. I mean it was in our 24 Chicago market.</p>	<p>49</p> <p>1 Q. In '87 was Phelps Dodge and Kennecott 2 Acid in Copley's specific market area?</p> <p>3 A. No. Not that I remember. Not that I 4 remember. But it was all over the marketplace. I 5 mean if you're asking me specifically do I remember 6 Kennecott or Phelps Dodge being there, I don't.</p> <p>7 Q. How about the Monaca, the zinc --</p> <p>8 A. Yes. Absolutely. It's 100 miles from 9 my plant.</p> <p>10 Q. And did you ever have -- during the time 11 period you were discussing supply with Noranda, did 12 you ever have discussions with Monaca about 13 attaining supply?</p> <p>14 A. Yes. I believe we did, but I don't 15 believe they went anywhere. Someone else was 16 marketing that product.</p> <p>17 Q. How much product did Monaca have going 18 into the sulfuric acid business?</p> <p>19 A. Monaca had somewhere in the neighborhood 20 of probably 100, 150,000 tons, something like that.</p> <p>21 Q. What was PVS -- I know you might have 22 mentioned this earlier, but what was Copley's 23 capacity?</p> <p>24 A. 50,000 tons.</p>

<p>1 Q. A year?</p> <p>2 A. Yes. And if the plant ran well, it made</p> <p>3 50,000, and if it didn't, it made 35, 36,000.</p> <p>4 Q. And who else during that time frame were</p> <p>5 your competitors in the Copley market?</p> <p>6 A. CIL was by far and away the biggest</p> <p>7 competitor, and then after that, it would have been</p> <p>8 the material out of Monaca.</p> <p>9 Q. Anyone else you can think of?</p> <p>10 A. Not really.</p> <p>11 Q. How about the Chicago market?</p> <p>12 A. The Chicago market -- this is</p> <p>13 speculation on my part because I was not involved</p> <p>14 with Chicago at all at the time. My involvement in</p> <p>15 Chicago didn't happen until 1999.</p> <p>16 I know that Kennecott material moved</p> <p>17 into Chicago, Phelps Dodge moved into Chicago,</p> <p>18 Asarco Material moved into Chicago, and all of that</p> <p>19 is by-product smelter product.</p> <p>20 Q. And who was moving -- all the acid that</p> <p>21 you just mentioned, who was actually moving it into</p> <p>22 those markets, was Phelps Dodge itself marketing --</p> <p>23 A. Well, I mean some of it -- Kennecott we</p> <p>24 bought from them in Chicago.</p>	<p>50</p> <p>1 was marketing material for.</p> <p>2 Q. How about five years ago?</p> <p>3 A. Asarco moved their own material. That</p> <p>4 I'm aware of. Asarco is a big smelter --</p> <p>5 Q. Back in '87?</p> <p>6 A. -- in Arizona.</p> <p>7 Yes.</p> <p>8 Q. Into Chicago?</p> <p>9 A. Into Chicago, yeah, into Columbus --</p> <p>10 Q. Did --</p> <p>11 A. -- Ohio. They also had a terminal in</p> <p>12 Columbus, Ohio.</p> <p>13 MR. HAMILTON: Can you please try not to talk</p> <p>14 over each other?</p> <p>15 (WHEREUPON, discussion was had</p> <p>16 off the record.)</p> <p>17 BY MR. BELL:</p> <p>18 Q. Where was the Asarco smelter operation?</p> <p>19 A. Hayden, Arizona.</p> <p>20 Q. And how about Phelps Dodge?</p> <p>21 A. Hidalgo, New Mexico.</p> <p>22 Q. And is it common for sulfuric acid to</p> <p>23 travel such long distances?</p> <p>24 A. It's not desirable, but it is common.</p>
<p>51</p> <p>1 Q. Okay. So they weren't really a</p> <p>2 competitor of yours?</p> <p>3 A. They were, because they would sell to</p> <p>4 anybody that had a customer. Phelps Dodge, same</p> <p>5 thing.</p> <p>6 Q. They would sell to anybody who had a</p> <p>7 customer?</p> <p>8 A. In other words --</p> <p>9 Q. They weren't selling to end-users?</p> <p>10 A. They were selling railcars into Chicago,</p> <p>11 and primarily through distribution, they'd break it</p> <p>12 down and sell it in a truck, or I'm sure they</p> <p>13 probably also had rail direct business. Again, I</p> <p>14 was not involved in Chicago at all.</p> <p>15 Q. I understand, but I mean you may have</p> <p>16 knowledge of the market. You've been in the</p> <p>17 business a long time. I'm just trying to see what</p> <p>18 knowledge you have, even if you weren't involved in</p> <p>19 that specific operation.</p> <p>20 Who were some of the distributors of</p> <p>21 Kennecott and Phelps Dodge acid in the Chicago</p> <p>22 market?</p> <p>23 A. I have no idea. You're going back 20</p> <p>24 years. I don't have a recollection as to who it</p>	<p>53</p> <p>1 Q. And back in '87 it was common?</p> <p>2 A. It was very common. A lot of it also</p> <p>3 moved to Florida.</p> <p>4 Q. And when -- was there a certain time</p> <p>5 frame that smelter acid became a factor as far as</p> <p>6 PVS's operations?</p> <p>7 A. I don't understand the question.</p> <p>8 MR. HAMILTON: I'll object to the form.</p> <p>9 BY MR. BELL:</p> <p>10 Q. Was there a certain time frame that</p> <p>11 smelter acid, as far as PVS was concerned, became</p> <p>12 something that, you know, PVS had to deal with --</p> <p>13 A. As long as I've been in the business,</p> <p>14 smelter acid has been a fact of life in the</p> <p>15 sulfuric acid market.</p> <p>16 Q. Was there a certain time period that</p> <p>17 smelter production was increasing at a larger rate</p> <p>18 than it had before?</p> <p>19 A. I don't know how to answer than it had</p> <p>20 before. There was a lot of smelter acid available</p> <p>21 throughout the 1980s, and it was -- US regulations</p> <p>22 also required that they require more acid.</p> <p>23 Q. So starting in the '80s and moving to</p> <p>24 the '90s, in your estimation was the smelter acid</p>

<p>1 increasing throughout that time period?</p> <p>2 A. Yes.</p> <p>3 Q. And that was due to increasingly</p> <p>4 tightening environmental regulations?</p> <p>5 A. I believe so.</p> <p>6 Q. And while you were with PVS, did you</p> <p>7 ever obtain or read any marketing reports relating</p> <p>8 to smelter acid and the impact it would have on the</p> <p>9 US markets?</p> <p>10 A. I don't recall, but I'm sure as part of</p> <p>11 my job I read all sorts of things.</p> <p>12 Q. And going back to -- because I don't</p> <p>13 think I got a clear answer.</p> <p>14 Going back to when you were doing a</p> <p>15 make-or-buy analysis or were involved in that</p> <p>16 process on behalf of PVS, did you take into</p> <p>17 consideration what impact smelter acid from Noranda</p> <p>18 would have on your market as far as pricing going</p> <p>19 forward from, you know, if PVS didn't enter into an</p> <p>20 agreement with Noranda?</p> <p>21 MR. NORDAHL: Object to the form of the</p> <p>22 question.</p> <p>23 BY THE WITNESS:</p> <p>24 A. Did we take into account what affect it</p>	54	<p>1 go down?</p> <p>2 A. Yeah.</p> <p>3 Q. And then did you take into account that</p> <p>4 scenario in determining the future viability of</p> <p>5 Copley? Could Copley survive in this -- in</p> <p>6 competition with this Canadian acid? In other</p> <p>7 words, if prices are going down, obviously Copley</p> <p>8 will have less opportunity to make money?</p> <p>9 MR. NORDAHL: Object to the form of the</p> <p>10 question. It's compound, vague.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I don't think we did a projection out as</p> <p>13 to where prices were going to go. If Noranda came</p> <p>14 in and we shut down the plant, I think we looked at</p> <p>15 our own operation and said that we're not making</p> <p>16 money today. If more acid comes in and the prices</p> <p>17 go down, we're going to make even less money --</p> <p>18 we're going to lose even more money tomorrow than</p> <p>19 we're losing today.</p> <p>20 BY MR. BELL:</p> <p>21 Q. So was it PVS's intent to get -- to get</p> <p>22 control of the Noranda acid that was destined for</p> <p>23 the Copley market?</p> <p>24 A. No, it was PVS's intention to earn a</p>	56
<p>1 would have on the pricing in the market?</p> <p>2 BY MR. BELL:</p> <p>3 Q. Sure.</p> <p>4 A. I don't think we assumed it would do</p> <p>5 anything to the pricing in the market.</p> <p>6 Q. Did Noranda ever tell PVS that the acid</p> <p>7 is coming into your market whether you like it or</p> <p>8 not?</p> <p>9 MR. NORDAHL: I object to that question, lacks</p> <p>10 foundation.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Not that I'm aware of.</p> <p>13 BY MR. BELL:</p> <p>14 Q. Did PVS ever consider what -- that the</p> <p>15 smelter acid, what impact it would have on pricing</p> <p>16 in the market if PVS wasn't distributing it?</p> <p>17 A. You're asking me to recall a specific</p> <p>18 thought and I don't. However, I'm reasonably</p> <p>19 astute to know if more product exists than there is</p> <p>20 demand, supply/demand curves work, so a reasonable</p> <p>21 assumption would be that pricing would go down.</p> <p>22 Q. So if PVS believed at the time that</p> <p>23 Noranda acids was destined for the PVS market,</p> <p>24 then PVS's assumption would be that pricing would</p>	55	<p>1 profit. Period. We're a for-profit corporation,</p> <p>2 and we were not earning a profit, so we needed to</p> <p>3 look at alternatives to what we were currently</p> <p>4 doing, which wasn't working.</p> <p>5 Q. And did the agreement that was</p> <p>6 eventually entered into between PVS and Noranda</p> <p>7 did it have any kind of -- let me go back.</p> <p>8 In doing your make-or-buy analysis, did</p> <p>9 you have to determine a price at which you would</p> <p>10 have to attain the Noranda acid in order to be able</p> <p>11 to make it worthwhile to shut down Copley?</p> <p>12 A. I don't know how the final price was</p> <p>13 ultimately derived. I think we looked and did an</p> <p>14 analysis of our selling prices, our production</p> <p>15 prices. We knew that we needed to buy at a price</p> <p>16 somewhat less than what we were selling at. And</p> <p>17 what the ultimate criteria that was used for</p> <p>18 getting to that ultimate purchase price was, I</p> <p>19 don't know, and I don't know what the Noranda folks</p> <p>20 push back was on that either.</p> <p>21 Q. So my assumption was that the Noranda</p> <p>22 selling price to PVS for Copley was less than the</p> <p>23 production costs that you would come up with in</p> <p>24 your analysis?</p>	57

<p>1 A. I don't recall. For some reason I think 2 there may have been some cash paid up front and 3 then the rest was as a reduction in cost on acid 4 over a set number of tons. But if you ask me 5 that -- am I 100 percent sure, I can't say yes. 6 Q. And why were these modifications to take 7 Noranda acid necessitated? 8 A. Because of the way they wanted to 9 transport the product to us, which was in unit 10 trains, blocks of 40 railcars at a time, and it 11 would be -- the unloading system was different than 12 what we had. We did not have track space to 13 accommodate all 40 cars at one time, so we had to 14 expand our infrastructure to handle that. 15 Q. And who was in charge of making the 16 modifications? Was Noranda involved in any matter 17 in the modifications that were made to the new 18 Copley facility? 19 A. I believe their engineers probably 20 worked with our engineers in terms of letting us 21 know what the requirements would be for the cars 22 and how to unload them, so we had to put in a 23 facility that was compatible with what they were 24 sending down, so I'm sure the engineers talked.</p>	66	<p>1 tons of additional storage, since they were sending 2 down 4,000 tons at a time. 3 Q. And how much -- if you have an idea, how 4 much does a construction of a storage tank cost of 5 that size, the 2,000 tons? 6 A. It was so long ago. I don't recall what 7 it would cost back then. 8 Q. Now, taking these costs for these 9 improvements that needed to be made to take Noranda 10 acid, was it still more economical to cease 11 production and go with the Noranda supply? 12 MR. NORDAHL: Can I hear the question back? 13 (WHEREUPON, the record was read 14 by the reporter.) 15 BY THE WITNESS: 16 A. I assume it was or we wouldn't have done 17 it. 18 BY MR. BELL: 19 Q. So when Copley first shut down -- let me 20 ask it this way. 21 Did you take the capital costs of those 22 improvements into your make-or-buy analysis? 23 A. I'm sure we did. 24 Q. And when Copley first started taking</p>
<p>1 Q. With the Copley plant -- how about 2 storage terminals -- I mean tank storage? 3 A. We had to build an additional storage 4 tank. 5 Q. And did Noranda contribute to the 6 capital cost? 7 A. I think it was all part of the same 8 thing. 9 Q. So there was tracks that had to be put 10 in, a storage tank? 11 A. Right. 12 Q. What else? 13 A. And an unloading system. 14 Q. Would that be referred to as the 15 transloading -- some kind of transloading 16 mechanism? 17 A. It was part of the whole unit train 18 unloading system which incorporated the tracks. 19 Q. And what size storage tank was built at 20 that time? 21 A. Approximately 2,000 tons. 22 Q. And did the Copley facility have a 23 storage tank in addition to this one? 24 A. Yeah, it had about, approximately, 3,000</p>	67	<p>1 Noranda acid, were the economics taking all of 2 these factors into consideration, the capital costs 3 that were incurred, the potential revenue sharing 4 between Noranda and PVS, was that still more 5 economical than continuing to make acid? 6 A. Again, I'm sure it was. Just as a 7 matter of background, again, with an acid plant, 8 there's ongoing capital costs every year. You have 9 to shut down your plant, do the required 10 maintenance and put it back up. By shutting our 11 plant down, we avoided approximately \$200,000 per 12 year in costs that we would no longer incur when 13 the plant was shut down. 14 Q. And was that -- strike that. 15 THE WITNESS: Would it be possible to take a 16 nature break here? 17 MR. BELL: Absolutely. 18 (WHEREUPON, a recess was had.) 19 BY MR. BELL: 20 Q. Were you involved in any other 21 make-or-buy decisions for any other facility of 22 PVS? 23 A. No. 24 Q. Are you aware of any other make-or-buy</p>

<p>1 analysis that took place for any other facilities 2 that PVS owned? 3 A. As we discussed earlier, the Bay City. 4 Q. And was that a similar situation at 5 Copley as far as taking smelter acid and ceasing 6 production? 7 A. I assume so. 8 Q. You have no knowledge at all why Bay 9 City closed? 10 A. I believe Bay City was not profitable. 11 Q. Are you aware that they ceased 12 production and took Noranda acid at the time they 13 ceased production? 14 A. Yes. 15 Q. But you have no knowledge of any 16 negotiations for Bay City? 17 A. Not involved in the least. 18 Q. And how about PVS's Chicago facility, 19 how many production units were in Chicago? 20 A. What do you mean "production units"? 21 Q. As far as plants, the manufacturers of 22 sulfuric acid. 23 A. I have one production unit in Chicago. 24 Q. And was that facility ever -- was</p>	<p>70 1 A. Yes. 2 MR. NORDAHL: I'm sorry, Theo, can you speak 3 up just a little bit? 4 BY MR. BELL: 5 Q. I'll let you take a minute to review 6 that document. Let me know when you've had enough 7 time to review it. 8 A. Okay. 9 Q. Do you know about what time frame this 10 document is from? I believe there's a date 11 handwritten on the last page, but since it's 12 handwritten in there, I don't want -- 13 A. It's handwritten in there with Frank J. 14 Biermann's initials, so I assume that's sent on 15 August 30, 1987. 16 Q. Okay. And based on the first page of 17 this document, do you believe that you would have 18 received this document from Frank Biermann back at 19 that time frame in 1987? 20 A. Uh-huh. 21 Q. That was a yes? 22 A. I'm sorry, I was swallowing. 23 MR. HAMILTON: That's okay. 24 BY THE WITNESS:</p>
<p>71 1 production ever decreased in order to take Noranda 2 acid? 3 A. Never. 4 Q. Did that facility ever take Noranda 5 acid? 6 A. Yes. 7 Q. When did it start taking Noranda acid? 8 A. Actually, I do not know. I assume it 9 was the late '80s they started working with 10 Noranda. 11 Q. In the late '80s? 12 A. Yes. 13 Q. Okay. 14 (WHEREUPON, a certain document 15 was marked Larson Deposition 16 Exhibit No. 1, for 17 identification, as of 6-23-05.) 18 BY MR. BELL: 19 Q. I'm handing you what's been marked as 20 Larson Exhibit 1. Have you seen this document 21 before? 22 A. Yes. 23 Q. And have you seen it recently during 24 your review for this deposition or --</p>	<p>73 1 A. The answer is yes. 2 BY MR. BELL: 3 Q. I was just trying to clarify your answer 4 for the record. 5 MR. HAMILTON: We'll keep you honest, so will 6 the court reporter. That's all right. 7 BY MR. BELL: 8 Q. And this was related to the Copley 9 shutdown? 10 A. Correct. 11 Q. Or the make-or-buy analysis that was 12 going on at that time? 13 A. Correct. 14 Q. And the first numbered paragraph on page 15 PVS 107688, the second page of the document, it 16 says, "Sulfuric is generating a modest margin, but 17 not covering indirect costs." 18 What does indirect costs entail? 19 A. I believe what it's referring to is it's 20 making a modest margin over a variable cost, and 21 the variable cost is the cost of sulfur, so we're 22 generating more money than the cost of sulfur going 23 in but not covering all the overhead and labor 24 costs.</p>

<p>1 Q. Okay. And the labor costs that you're</p> <p>2 referring to were what you figured out when you are</p> <p>3 doing make-or-buy analysis, and that was, I'm</p> <p>4 assuming, based on assumptions you were making at</p> <p>5 the time looking forward?</p> <p>6 MR. NORDAHL: Object to the form of the</p> <p>7 question.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I believe it was based on what they</p> <p>10 were, labor costs.</p> <p>11 BY MR. BELL:</p> <p>12 Q. I'm talking all the costs that went into</p> <p>13 your analysis, not just the labor costs. The</p> <p>14 market, the price of sulfur, were those factors</p> <p>15 that would have went into your analysis?</p> <p>16 A. Yes.</p> <p>17 Q. So I mean the price of sulfur you would</p> <p>18 have had to make assumptions whether the price was</p> <p>19 going up or down, is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And I'm just wondering, so assumptions</p> <p>22 were made in your make-or-buy analysis looking</p> <p>23 forward?</p> <p>24 A. I assume assumptions were made. How's</p>	<p>74</p> <p>1 it -- did you find that some of your assumptions</p> <p>2 were wrong and more care would have to be taken in</p> <p>3 the future to make a similar analysis?</p> <p>4 A. I'm sure we did. In any business</p> <p>5 decision, assumptions are made and assumptions are</p> <p>6 proven incorrectly.</p> <p>7 Q. Do you recall that to be the case when</p> <p>8 you went back and looked at the assumptions that</p> <p>9 went into your make-or-buy analysis for Copley?</p> <p>10 A. I don't recall that to be a fact, but it</p> <p>11 could be.</p> <p>12 Q. If you go down to the -- a little past</p> <p>13 the middle of the page where it says "Supply</p> <p>14 Strategy."</p> <p>15 A. Uh-huh.</p> <p>16 Q. The second sentence there in that</p> <p>17 paragraph states, "When their additional acid come</p> <p>18 on, our market is the logical direction to move</p> <p>19 it... with or without us."</p> <p>20 Can you tell us what that refers to? I</p> <p>21 mean you can take your time to review the document</p> <p>22 if you need.</p> <p>23 A. No. Again, of simple mind, the product</p> <p>24 is produced in Canada. The first state across the</p>
<p>75</p> <p>1 that?</p> <p>2 Q. It wasn't made directly on historical</p> <p>3 data that you had, it was a forward-looking</p> <p>4 analysis that had to make certain assumptions,</p> <p>5 that's all I'm trying to say.</p> <p>6 A. I would assume so. That's the best I</p> <p>7 can answer it.</p> <p>8 Q. Fair enough. I started my question</p> <p>9 saying that I assumed that assumptions were made,</p> <p>10 and now --</p> <p>11 A. I'm assuming your assumptions are</p> <p>12 correct.</p> <p>13 Q. And do you remember at some point in</p> <p>14 time after the deal with Noranda was made going</p> <p>15 back and reanalyzing your make-or-buy analysis and</p> <p>16 the assumptions that were contained in there?</p> <p>17 A. I believe we did, yeah, do a</p> <p>18 post-analysis on this thing.</p> <p>19 Q. And what were the conclusions of your</p> <p>20 post-analysis?</p> <p>21 A. I believe there's a document that you</p> <p>22 probably have, but I believe that the post-analysis</p> <p>23 said that it was -- we made the right decision.</p> <p>24 Q. Okay. But did the post-analysis, did</p>	<p>77</p> <p>1 border from Canada is New York and Ohio. One would</p> <p>2 assume that that's the first place it would stop.</p> <p>3 So the logical place for it to go is as close to</p> <p>4 its origin as possible.</p> <p>5 Q. And is there -- what gateway would the</p> <p>6 acid coming into Ohio come through, if you know, as</p> <p>7 far as the rail is concerned?</p> <p>8 A. There are a couple. I know Niagra Falls</p> <p>9 is one gateway in the US, and I believe also in</p> <p>10 Michigan is another gateway.</p> <p>11 Q. Detroit or --</p> <p>12 A. Somewhere in that area, Sarnia. I'm not</p> <p>13 sure.</p> <p>14 Q. In the Detroit area?</p> <p>15 A. Yes.</p> <p>16 Q. So is there a gateway you're familiar</p> <p>17 with that goes into Ohio?</p> <p>18 A. Well, Canada doesn't border Ohio, so</p> <p>19 we'd have to go through New York, so that would be</p> <p>20 Niagara Falls gateway.</p> <p>21 Q. So you projected the Noranda acid</p> <p>22 destined for the US, was that key your decision in</p> <p>23 the make-or-buy analysis based on what's written</p> <p>24 here?</p>

<p>1 MR. HAMILTON: Object to the form.</p> <p>2 Go ahead and answer.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Our make-or-buy analysis was made on our</p> <p>5 need to do something better for our company and we</p> <p>6 entered into the make-or-buy analysis based on that</p> <p>7 thought process. The fact that they were coming</p> <p>8 out with additional acid certainly made them a</p> <p>9 logical supplier.</p> <p>10 BY MR. BELL:</p> <p>11 Q. And did this supply strategy here that</p> <p>12 we're focusing on on this document, did it have</p> <p>13 anything to do with what the Noranda acid would do</p> <p>14 to your market in the Copley area as far as supply</p> <p>15 and demand?</p> <p>16 MR. NORDAHL: Object to the form of the</p> <p>17 question.</p> <p>18 BY THE WITNESS:</p> <p>19 A. Again, our decision was based on what we</p> <p>20 could do best for our company and that's how the</p> <p>21 decision was made. Whether there were other</p> <p>22 external factors that went into that decision,</p> <p>23 certainly I'm sure they were considered.</p> <p>24 BY MR. BELL:</p>	<p>78</p> <p>1 A. Well, if it was provided to someone</p> <p>2 else, that person didn't share it with me.</p> <p>3 Q. That's all I wanted to clarify. When</p> <p>4 you say "never," if it's something you're</p> <p>5 absolutely certain it never happened or just in</p> <p>6 your experience you weren't aware of.</p> <p>7 A. I have no idea whether it ever happened</p> <p>8 or not. I generally don't share costs with my</p> <p>9 customers.</p> <p>10 Q. During the negotiations with Noranda for</p> <p>11 the Copley facility, did Noranda ever offer to run</p> <p>12 the Copley facility for PVS?</p> <p>13 A. Run it for us? Not to my knowledge.</p> <p>14 Q. To operate the plant?</p> <p>15 A. Noranda personnel?</p> <p>16 Q. To manage the operations.</p> <p>17 A. Not that I'm aware.</p> <p>18 Q. And was there a lag in the time that</p> <p>19 Copley shut down and the time that Noranda started</p> <p>20 supplying Copley with Noranda acid?</p> <p>21 A. No. The plant shut down and Noranda</p> <p>22 supplied literally on the day we needed it when we</p> <p>23 shut down. The plant -- I'll go back and make a</p> <p>24 point I made before.</p>
<p>79</p> <p>1 Q. Such as your ability to compete with</p> <p>2 Noranda should it come into your market at Copley?</p> <p>3 A. Sure.</p> <p>4 Q. And that was a factor that was</p> <p>5 considered in the make-or-buy analysis?</p> <p>6 A. Our ability to complete? We already had</p> <p>7 no ability to complete in the market, which is why</p> <p>8 we were doing a make-or-buy analysis period.</p> <p>9 Q. During your make-or-buy analysis, did</p> <p>10 you ever undertake an analysis of what Noranda's</p> <p>11 costs were for acid that would be coming</p> <p>12 into Copley?</p> <p>13 MR. NORDAHL: Object. The question lacks</p> <p>14 foundation. object to the form as well.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Absolutely not, because I, again, have</p> <p>17 no knowledge of what their costs are, what their</p> <p>18 infrastructure is.</p> <p>19 BY MR. BELL:</p> <p>20 Q. And was that information ever provided</p> <p>21 from PVS to Noranda, was it ever discussed?</p> <p>22 A. Never ever.</p> <p>23 Q. And you know that for a fact or based</p> <p>24 on --</p>	<p>81</p> <p>1 The plant needs to go down for a</p> <p>2 maintenance turnaround every year. If you do not</p> <p>3 take a plant down for a maintenance turnaround, it</p> <p>4 takes itself down. And our plant was in the</p> <p>5 process of shutting itself down. We had to decide</p> <p>6 do we want to spend a couple hundred thousand</p> <p>7 dollars to keep it running or do we let it shut</p> <p>8 down. We chose to let it shut down.</p> <p>9 (WHEREUPON, there was a short</p> <p>10 interruption.)</p> <p>11 BY MR. BELL:</p> <p>12 Q. So my question, to your knowledge,</p> <p>13 though, did -- was there a time frame that Noranda</p> <p>14 started producing acid from its smelters or</p> <p>15 supplying acid from its smelters to PVS that you</p> <p>16 were aware of at the time? In other words, when</p> <p>17 did Noranda actually start supplying PVS with acid</p> <p>18 from Noranda smelters?</p> <p>19 A. The day we shut down.</p> <p>20 Q. And you're not aware of Noranda</p> <p>21 supplying acid from other sources other than it's</p> <p>22 smelters to PVS leading up --</p> <p>23 A. Not that I'm aware of. Not that I'm</p> <p>24 aware of. I know the first train we brought in</p>

<p>102</p> <p>1 Q. That would likely relate to your</p> <p>2 make-or-buy analysis?</p> <p>3 A. Yes.</p> <p>4 Q. And then the last paragraph towards the</p> <p>5 bottom where it says, "This case results in a 4.7</p> <p>6 year pay back at 6.9 percent Internal rate of</p> <p>7 return, assuming, of course, that capital costs do</p> <p>8 not exceed \$565,000, that plant shutdown cost and</p> <p>9 employee severance costs are as indicated on</p> <p>10 attached, that we incur no incremental cost for</p> <p>11 delivery of acid of offloading of unit trains and</p> <p>12 that average net backs remain unchanged."</p> <p>13 Can you explain to me what your</p> <p>14 understanding of that paragraph is?</p> <p>15 A. That would, I would assume, refer to the</p> <p>16 shutdown scenario, having a 4.7 year payback,</p> <p>17 because there would be no capital costs involved of</p> <p>18 the magnitude of 565,000, if we were to run the</p> <p>19 plant.</p> <p>20 Q. There would be no capital costs of</p> <p>21 565,000 if you were to run the plant or does that</p> <p>22 relate to the costs of upgrading the plant to take</p> <p>23 sulfuric acid from Noranda?</p> <p>24 A. I don't understand what your question</p>	<p>104</p> <p>1 at 34 percent to 40 percent thereafter. I have</p> <p>2 used 40 percent across the board in attached</p> <p>3 analysis, volumes at 60,000 tons a year."</p> <p>4 It goes on to say, "This is the more</p> <p>5 likely scenario which would result in a 1.8 year</p> <p>6 payback and 40 percent internal rate of return</p> <p>7 based on after tax cash flows."</p> <p>8 So he is saying that after discussions</p> <p>9 with me, the more likely scenario says it's going</p> <p>10 to be very expensive to run the sulfuric acid plant</p> <p>11 because the cost of sulfur is at 35.40, and that</p> <p>12 the buy decision based on a 1.8 year payback and a</p> <p>13 40.8 percent internal rate of return is a</p> <p>14 no-brainer, that we should shut the plant down.</p> <p>15 Q. Can you read the next full paragraph?</p> <p>16 A. "As I understand the market</p> <p>17 circumstances in Ohio, our choices are not between</p> <p>18 running the plant or proceeding with the unit train</p> <p>19 proposal. Rather, they are apparently between</p> <p>20 proceeding with the unit train proposal or</p> <p>21 gradually shutting down the plant and getting out</p> <p>22 of the sulfuric acid market in Ohio. Apparently,</p> <p>23 the Noranda acid is destined for the Ohio market,</p> <p>24 and if we do not control it, someone else will.</p>
<p>103</p> <p>1 is.</p> <p>2 Q. Yeah, I may not have -- as I understand</p> <p>3 it, the case scenario is discussed above from the</p> <p>4 paragraph we just read, if you take PVS 4.7 years</p> <p>5 to pay back the capital costs of modifying the</p> <p>6 Copley terminal to take Noranda acid, is that</p> <p>7 right?</p> <p>8 A. That's what I believe it says.</p> <p>9 Q. Okay. And then when it mentions</p> <p>10 assuming, of course, that capital costs do not</p> <p>11 exceed \$565,000, would that relate to the costs of</p> <p>12 upgrading the plant to take Noranda acid?</p> <p>13 A. I believe that's what it referred to.</p> <p>14 Q. I may have misunderstood your previous</p> <p>15 answer and I apologize for that.</p> <p>16 And if you could read the first</p> <p>17 paragraph on the next page.</p> <p>18 A. "Discussion with Dean leads me to</p> <p>19 believe that a more realistic scenario is as</p> <p>20 follows: Higher sulfur cost 35.40 per ton 100</p> <p>21 percent sulfuric acid. Salvage value of spare</p> <p>22 parts and equipment probably a minimum of \$75,000,</p> <p>23 four employees, although they think they can do it</p> <p>24 with three, and federal income taxes a year or two</p>	<p>105</p> <p>1 The latter would apparently result in depressed</p> <p>2 prices and make it uneconomical to operate the</p> <p>3 plant."</p> <p>4 Q. What is your understanding of what that</p> <p>5 paragraph says?</p> <p>6 A. That paragraph says whether we do a</p> <p>7 deal with Noranda or not, we're shutting down the</p> <p>8 plant.</p> <p>9 Q. And one of the factors in that</p> <p>10 determination was that the Noranda acid is destined</p> <p>11 for the Ohio market which will then depress the</p> <p>12 prices in that market?</p> <p>13 A. One does not say that. It says that the</p> <p>14 choices are between shutting down the plant and</p> <p>15 getting out of the business or going -- in other</p> <p>16 words, exiting the business, getting out of the</p> <p>17 sulfuric acid market in Ohio. The other one then</p> <p>18 says, "Or the other choice is to go with the unit</p> <p>19 train proposal," and salvage our business, if you</p> <p>20 will.</p> <p>21 Q. So specifically where it says,</p> <p>22 "Apparently, the Noranda acid is destined for the</p> <p>23 Ohio market and if we do not control it, someone</p> <p>24 else will," what does that refer to?</p>

<p>110</p> <p>1 A. There, again, there exists an oversupply 2 in the market which kept prices in the market at 3 market prices. 4 Q. Okay. 5 A. I don't set the market price. 6 Q. I understand. But as part of the 7 analysis, then, you would take into account the 8 potential Noranda acid destined for the Ohio 9 market? 10 A. Obviously, we were aware that there was 11 potential product coming into the market. 12 Q. So if that was to occur and the prices 13 went lower than they were, there would be 14 absolutely no way to continue running the plant? 15 MR. NORDAHL: Objection to the form of the 16 question. 17 BY THE WITNESS: 18 A. Under the current circumstances, there 19 was no way to continue running the plant which is 20 stated in here. The arrival of Noranda acid would 21 have made it worse, I guess, is the assumption. 22 BY MR. BELL: 23 Q. The last paragraph, if you could read 24 that, I guess the first two sentences?</p>	<p>112</p> <p>1 me to comment on? 2 Q. I just asked you a question. I guess 3 your answer is without the attached spreadsheet, 4 you can't interpret that? 5 A. We assume that if the most likely 6 scenario is accurate, then we should proceed. 7 MR. BELL: And during the lunch break, I'm 8 going to have the staff here look and see what 9 follows this document in case it's there, because I 10 can't represent that it is or isn't, and I know you 11 probably can't sit -- 12 MR. HAMILTON: Right. Right. 13 MR. BELL: So at least we can figure out if 14 there is an attachment to this. 15 BY MR. BELL: 16 Q. Based on that last paragraph, PVS was 17 considering the option of a gradual withdrawal from 18 the market? 19 A. Again, I will temper that statement by 20 stating this was written by an accountant who had 21 no knowledge of the plant and the plant was 22 shutting itself down without its annual turnaround 23 basis. The decision had been made, we weren't 24 going to run the plant.</p>
<p>111</p> <p>1 A. "In summary, if the above market 2 assessment is accurate and you believe that the 3 'more likely scenario' assumptions are reasonably 4 accurate, then we should proceed with this project 5 post" -- I believe he meant to say "haste." "If 6 however, you believe that the so-called 'worse case 7 scenario' is reasonably possible, then we should 8 perhaps take a closer look at the option of 9 gradually withdrawing from the market. This latter 10 option should, in any event, be preserved in any 11 agreement we reach with Noranda, i.e., termination 12 provisions must allow for withdrawal from the 13 Agreement without unduly harsh financial penalty. 14 I would be happy to discuss this further with any 15 of you at your convenience." 16 Q. Can you explain what your understanding 17 of this paragraph is relating to the worse case 18 scenario and then the option of gradual withdrawal 19 from the market as opposed to just shutting down? 20 As you said, the decision had already been made. 21 A. I commented before I don't know why 22 he -- what the term "worse case scenario" was and 23 he's using it without seeing any spreadsheet or 24 whatever this is referring to. So what do you want</p>	<p>113</p> <p>1 Q. Okay. And the plant was -- when you say 2 was shutting itself down -- 3 A. Eating itself up. 4 Q. Was unable to operate at the time? 5 A. Correct. 6 Q. It was unable to produce acid at the 7 time this was written? 8 A. The plant -- there's a diminishing 9 production rate, and so if you don't put money into 10 the plant, the production rate continues to get 11 worse and worse, and the economics of that plant 12 get worse and worse. A decision had been made -- 13 Q. And that relates to yearly maintenance 14 that's required at the plant, correct? 15 A. Yes. 16 Q. I think that's all I have on that 17 document. 18 MR. BELL: Is now a good time to stop? 19 MR. HAMILTON: Assuming that Ellen and 20 Mr. Larson -- I'll do whatever the consensus is. 21 (WHEREUPON, the deposition was 22 recessed until 12:45 p.m., this 23 date.) 24</p>

<p>1 possible. The specific instance I don't recall.</p> <p>2 Q. My question is specifically addressed to</p> <p>3 rail direct from Noranda to a PVS customer, whether</p> <p>4 Noranda would go -- would pursue that customer</p> <p>5 directly on its own, not to another marketer?</p> <p>6 MR. NORDAHL: Can I hear that question back?</p> <p>7 (WHEREUPON, the record was read</p> <p>8 by the reporter.)</p> <p>9 MR. NORDAHL: Objection, lack of foundation.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I don't remember Noranda selling direct</p> <p>12 to one of our customers that we were selling their</p> <p>13 product to.</p> <p>14 BY MR. BELL:</p> <p>15 Q. Until some time in 1999?</p> <p>16 A. Correct.</p> <p>17 Q. Did Noranda ever give PVS assurances</p> <p>18 under the initial Copley supply agreement that was</p> <p>19 entered into that it would not, in fact, go after</p> <p>20 PVS's customer base?</p> <p>21 A. No.</p> <p>22 Q. And are you basing your answer</p> <p>23 specifically and only on your knowledge?</p> <p>24 A. Yes.</p>	<p>126</p> <p>1 approach sulfur suppliers and attempt to obtain a</p> <p>2 two-year commitment from them to provide sulfur</p> <p>3 delivered to Copley at \$80 per ton. If they agree,</p> <p>4 we would commit to run the plant until January</p> <p>5 1990. This strategy is to be coordinated with</p> <p>6 Noranda since it is believed that this would also</p> <p>7 be of value to them."</p> <p>8 Q. Can you explain what that paragraph</p> <p>9 means?</p> <p>10 A. I believe that I was instructed to go</p> <p>11 out to our sulfur supplier and ask them to reduce</p> <p>12 their price to \$80 a ton and hold that price for a</p> <p>13 two-year period.</p> <p>14 Q. And the second part of that, "If they</p> <p>15 agree, we will commit to run the plant until</p> <p>16 January of 1990."</p> <p>17 So if sulfur could be obtained at that</p> <p>18 price, would the economics have been different?</p> <p>19 A. The economics would have been better for</p> <p>20 us, yes.</p> <p>21 Q. And you would have continued to run the</p> <p>22 plant until 1990?</p> <p>23 A. That's what this is suggesting, yes.</p> <p>24 Q. And the final sentence, "This strategy</p>
<p>127</p> <p>1 Q. You're not saying that that never, in</p> <p>2 fact, happened?</p> <p>3 A. I'm saying that to my knowledge, it</p> <p>4 never happened.</p> <p>5 Q. Paragraph 4, if you can read that into</p> <p>6 the record?</p> <p>7 A. "The proposed agreement is for a period</p> <p>8 of seven years. JB Nicholson would feel more</p> <p>9 comfortable with a ten year agreement."</p> <p>10 Q. Do you know why that was?</p> <p>11 A. More comfort in longer term commitments.</p> <p>12 Q. And once the Copley plant shut down, was</p> <p>13 that plant maintained so that they could operate</p> <p>14 again?</p> <p>15 A. No.</p> <p>16 Q. So if -- if there was a shorter term</p> <p>17 agreement entered into, PVS would be in a very</p> <p>18 vulnerable situation if Noranda stopped supplying</p> <p>19 acid, is that correct?</p> <p>20 A. Yeah.</p> <p>21 Q. Now about Paragraph 5, can you read that</p> <p>22 into the record?</p> <p>23 A. "Noranda's by-product acid becomes</p> <p>24 available in January, 1990. Thus D. Larson is to</p>	<p>1 is to be coordinated with Noranda since it is</p> <p>2 believed that this would also be of value to them.</p> <p>3 What is that referring to?</p> <p>4 A. I don't know since no sulfur supplier</p> <p>5 agreed to supply us at \$80 a ton, no strategy was</p> <p>6 implemented.</p> <p>7 Q. I understand, but why was this strategy</p> <p>8 to be coordinated with Noranda?</p> <p>9 A. Because it says that we would not need</p> <p>10 them to supply us product until a later date.</p> <p>11 Q. And why would that be of value to them?</p> <p>12 A. I guess because their supply wasn't</p> <p>13 coming on until January of 1990.</p> <p>14 Q. And if you could turn to the next page</p> <p>15 under Conclusion. If you could read the sentence</p> <p>16 and a half there?</p> <p>17 A. The top one?</p> <p>18 Q. Under Conclusion.</p> <p>19 A. "JB Nicholson asked for a vote on</p> <p>20 whether to proceed with the project. All in</p> <p>21 attendance voted to proceed. The following</p> <p>22 assignments were given."</p> <p>23 Q. So it was at this point that PVS made</p> <p>24 the decision to go ahead with the project in</p>

<p>130</p> <p>1 obtaining the acid and shut down the plant?</p> <p>2 MR. HAMILTON: No. I'll object to the form.</p> <p>3 Go ahead and answer.</p> <p>4 BY THE WITNESS:</p> <p>5 A. No. The decision to shut down the plant</p> <p>6 had been made months before. It was at this point</p> <p>7 in time that PVS made the plan to go forth with</p> <p>8 Noranda.</p> <p>9 BY MR. BELL:</p> <p>10 Q. That's all I have on that document.</p> <p>11 (WHEREUPON, a certain document</p> <p>12 was marked Larson Deposition</p> <p>13 Exhibit No. 5, for</p> <p>14 identification, as of 6-23-05.)</p> <p>15 BY MR. BELL:</p> <p>16 Q. I hand you what's been marked as Larson</p> <p>17 Exhibit 6.</p> <p>18 I don't think you're going to need to</p> <p>19 read this document to recognize what it is, but can</p> <p>20 you tell me what this document is just by looking</p> <p>21 at the first page?</p> <p>22 A. It appears to be the sales agreement or</p> <p>23 contract between PVS and Noranda.</p> <p>24 Q. My next question is whether it's an</p>	<p>132</p> <p>1 normal conversation that's fine.</p> <p>2 THE WITNESS: Sure.</p> <p>3 BY MR. BELL:</p> <p>4 Q. How about are you familiar with an</p> <p>5 individual from Noranda named George Jones?</p> <p>6 A. Yes.</p> <p>7 Q. Are you familiar with Mr. Jones?</p> <p>8 A. Over the course of business I met George</p> <p>9 Jones.</p> <p>10 Q. Do you recall whether you met George</p> <p>11 Jones during the negotiations at all with Noranda</p> <p>12 for this supply agreement?</p> <p>13 A. I was not involved in the negotiations,</p> <p>14 so I did not meet him during that time.</p> <p>15 Q. Now, if you turn to the first page of</p> <p>16 the agreement, the agreement appears to have been</p> <p>17 entered into on March 11, 1988, is that correct, if</p> <p>18 you look at the top?</p> <p>19 A. Yes.</p> <p>20 Q. Which is just three days after Exhibit</p> <p>21 5, is that correct?</p> <p>22 A. Well, four days.</p> <p>23 Q. Four days, excuse me.</p> <p>24 The parties, as far as PVS is concerned</p>
<p>131</p> <p>1 executed contract, and turn to Page 12 of that</p> <p>2 document?</p> <p>3 A. I'm sorry, your question was what?</p> <p>4 Q. Whether this is an executed copy?</p> <p>5 A. It is an executed copy.</p> <p>6 Q. Who are the signatories to the executed</p> <p>7 contract?</p> <p>8 A. Donald Sosnoski and James B. Nicholson,</p> <p>9 and on the Noranda side, it looks like something</p> <p>10 McLean, and I have no idea what the other one is.</p> <p>11 Q. Are you familiar with an individual from</p> <p>12 Noranda named Neil McLean?</p> <p>13 A. I've met Neil McLean before, yes.</p> <p>14 Q. When was that?</p> <p>15 A. I do not know, sometime during the</p> <p>16 course of the whole agreement with Noranda.</p> <p>17 Q. Do you know if it was during the</p> <p>18 negotiations that was discussed --</p> <p>19 A. I don't believe it was prior.</p> <p>20 MR. HAMILTON: Mr. Larson, we took a break and</p> <p>21 I know people are kind of lax in normal</p> <p>22 conversational tone, but I just want to remind you</p> <p>23 to make certain that you allow Mr. Bell to fully</p> <p>24 articulate his question before you answer it. In</p>	<p>133</p> <p>1 or from PVS's side to this agreement are PVS</p> <p>2 Chemicals, Inc. Ohio and Pressure Vessel Service,</p> <p>3 Inc., referred to as PVSII, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Is Pressure Vessel Service, Inc. the</p> <p>6 "corporate" we were referring to in the previous</p> <p>7 document?</p> <p>8 A. Yes.</p> <p>9 Q. If you could read Paragraph 2 on --</p> <p>10 it's marked Page 3 at the top. I don't know if</p> <p>11 there's a page missing. The Bates stamp of the</p> <p>12 first page is PVS 105281, the page I'm referring to</p> <p>13 is PVS 105283. It appears that 282 is missing. I</p> <p>14 don't know if that was a production error or if</p> <p>15 that was a copying error.</p> <p>16 A. "PVS Chemicals agrees to discontinue</p> <p>17 production of sulfuric acid at its Copley, Ohio</p> <p>18 plant. PVS Chemicals agrees to purchase and</p> <p>19 receive the total requirement for sulfuric acid</p> <p>20 sales from the Copley plant, and Noranda Sales</p> <p>21 hereby agrees to sell and ship to PVS Chemicals</p> <p>22 said acid supplies."</p> <p>23 Q. So was the discontinuation of sulfuric</p> <p>24 acid a negotiated term of this contract?</p>

<p>1 Q. Who would put together those 2 calculations? 3 A. My controller. 4 Q. And would you be involved in that 5 process at all? 6 A. I would be involved in reviewing the 7 final calculation before it went out. 8 Q. And did Noranda -- was there any 9 mechanism there for Noranda to verify the amount of 10 netbacks that were due to Noranda or -- 11 A. Yeah, per the contract there was the 12 right to audit our books. 13 Q. And during the next break, I will look 14 to see what happened to that missing page and see 15 if I can't locate that. 16 MR. HAMILTON: Given that it's omitting a 17 Bates stamp, it looks like it was just a copying 18 error. 19 MR. BELL: But since the Bates stamp was 20 handwritten, I don't know if it's a printing error 21 or -- but we'll look into that. 22 MR. HAMILTON: I see. 23 MR. BELL: It does appear that obviously a 24 page is missing, so we'll look into that.</p>	138	<p>1 Noranda was informed? 2 A. Yes. 3 Q. Referring to Exhibit 7 of the netback 4 increases or decreases? 5 A. Yes. 6 Q. Okay. Thank you. 7 (WHEREUPON, a certain document 8 was marked Larson Deposition 9 Exhibit No. 8, for 10 identification, as of 6-23-05.) 11 BY MR. BELL: 12 Q. I show you what's been marked as Exhibit 13 8, assuming that's the correct exhibit number? 14 MR. HAMILTON: It is. 15 BY THE WITNESS: 16 A. Okay. 17 BY MR. BELL: 18 Q. Could you describe to me what this 19 exhibit is and -- referring to the first three 20 pages for now. 21 A. It's just a review of the actual 22 performance of our decision. 23 Q. And what is the outcome of this? 24 A. It shows that we made the right decision</p>	140
<p>1 (WHEREUPON, a certain document 2 was marked Larson Deposition 3 Exhibit No. 7, for 4 identification, as of 6-23-05.) 5 BY MR. BELL: 6 Q. Handing you what's been marked as 7 Exhibit 7, Mr. Larson, and I'll hand copies around. 8 MR. HAMILTON: Thanks. 9 BY MR. BELL: 10 Q. Have you reviewed that document? 11 A. Yeah. 12 Q. And is this -- tell me what this 13 document is. 14 A. It's letting them know the results of 15 our netback after the quarterly basis. 16 Q. That we just discussed following the 17 terms of the -- I believe it's Item 13 as stated in 18 this letter. 19 So based on this Exhibit 7, then, the 20 price of acid that PVS was paying didn't increase 21 from the original contract, is that correct? 22 A. Correct. 23 Q. That's all I have on that one -- 24 actually, let me ask you. Was this typical of how</p>	139	<p>1 when we decided in '87 to shut the plant down. 2 Q. And if you turn to -- now, does this 3 document reflect that some of the assumptions that 4 were made in doing your economic analysis were not 5 accurate? 6 A. Yeah. 7 Q. I'm a little confused by reading this. 8 Is this relating to the assumptions of the plant 9 cost to manufacture sulfuric acid or the 10 assumptions in taking the acid from Noranda? 11 A. Mostly it refers to the assumptions, I 12 believe, and the bank costs. 13 Q. If you turn to Page 2 of this document, 14 Paragraph D. It says Cost of Produced Acid. "At 15 the time of our analysis in 1988, we assumed that 16 acid produced by the plant would cost \$49.91 per 17 ton." 18 A. Right. 19 Q. Is it your recollection that in '88, the 20 average price Copley was getting for acid was below 21 49.91 a ton? 22 A. You're asking me to recollect something 23 that happened 18 years ago. I have no idea what it 24 was.</p>	141

<p>274</p> <p>1 analysis?</p> <p>2 A. No, but if I could correct you, it was</p> <p>3 not a buy/sell decision, it was a make-or-buy</p> <p>4 decision.</p> <p>5 MR. BELL: I'm sorry, could you read that</p> <p>6 back, his answer?</p> <p>7 (WHEREUPON, the record was read</p> <p>8 by the reporter.)</p> <p>9 MR. HAMILTON: Thank you, you're correct.</p> <p>10 BY THE WITNESS:</p> <p>11 A. No, the economics of Noranda did not</p> <p>12 enter into that decision, the decision was made</p> <p>13 based on the performance of the plant that we would</p> <p>14 shut the plant down.</p> <p>15 BY MR. HAMILTON:</p> <p>16 Q. I want to ask you a little bit about the</p> <p>17 topic area that was discussed regarding zone</p> <p>18 bidding. Do you recall that general topic?</p> <p>19 A. Yes.</p> <p>20 Q. After the zone bidding was accomplished</p> <p>21 and various zones were awarded, was there anything</p> <p>22 that prevented PVS from making acid sales outside</p> <p>23 of the zones that did cover it?</p> <p>24 A. No, we were free to sell acid wherever</p>	<p>276</p> <p>1 geographic location within or outside of the United</p> <p>2 States."</p> <p>3 Q. And if you could just go to Exhibit 25,</p> <p>4 Page NFD 166833.</p> <p>5 A. Okay.</p> <p>6 Q. Is that same Paragraph 3.1(e), does</p> <p>7 that remain the same as it did in the initial</p> <p>8 proposal?</p> <p>9 A. Yes.</p> <p>10 MR. NORDAHL: That's all the questions I have.</p> <p>11 MR. BELL: Anyone else?</p> <p>12 MR. HAMILTON: My only other question is how</p> <p>13 do I hail a taxi?</p> <p>14 MR. BELL: I have one follow-up question.</p> <p>15 FURTHER EXAMINATION</p> <p>16 BY MR. BELL:</p> <p>17 Q. Now, you said the decision on the</p> <p>18 make-or-buy was made -- I'm sorry, I didn't catch</p> <p>19 it, was it August of '87?</p> <p>20 A. Yes.</p> <p>21 Q. And I believe in document Exhibit 5,</p> <p>22 which is dated -- Larson Exhibit 5 which is dated</p> <p>23 March 7th, 1988, this was the -- I'll let you --</p> <p>24 I'll show you my copy if you need me to.</p>
<p>275</p> <p>1 we wanted.</p> <p>2 Q. Were you free to sell acid outside the</p> <p>3 zones that you were assigned under those zone</p> <p>4 contracts?</p> <p>5 A. Yes.</p> <p>6 MR. HAMILTON: I have nothing further.</p> <p>7 MR. NORDAHL: Just real quickly, if you could</p> <p>8 pull out Exhibit 21 and Exhibit 25.</p> <p>9 MR. HAMILTON: I've got them right here.</p> <p>10 THE WITNESS: Okay.</p> <p>11 EXAMINATION</p> <p>12 BY MR. NORDAHL:</p> <p>13 Q. Go to Exhibit 21. Can you go to the</p> <p>14 Page PVS 106341.</p> <p>15 A. Yes.</p> <p>16 Q. And again, 21 was the June 1995 proposal</p> <p>17 from Noranda Sales marketing the Falconbridge acid,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Could you read into the record</p> <p>21 Paragraph (e), which is I believe 3.1(e)?</p> <p>22 A. "It is understood that Falconbridge has</p> <p>23 not prevented and is not attempting to prevent here</p> <p>24 under the buyer from selling sulfuric acid in any</p>	<p>277</p> <p>1 A. I got it here somewhere.</p> <p>2 Okay.</p> <p>3 Q. Page 3 of that document?</p> <p>4 A. Okay.</p> <p>5 Q. If you recall, we discussed this earlier</p> <p>6 today, where it says, "Conclusion.</p> <p>7 JP Nicholson asked for a vote on whether to proceed</p> <p>8 with the project. All in attendance voted to</p> <p>9 proceed?"</p> <p>10 What was his vote for?</p> <p>11 A. What was the vote?</p> <p>12 Q. Yes.</p> <p>13 A. The vote was ultimately to enter into an</p> <p>14 agreement with another to supply us.</p> <p>15 Q. And so that decision was made that this</p> <p>16 goes?</p> <p>17 A. No, the decision to shut down the plant</p> <p>18 was made previous to that. The decision to move</p> <p>19 forward with the agreement that had been -- that</p> <p>20 was under negotiation was given final approval at</p> <p>21 this meeting.</p> <p>22 Q. Okay. Sorry I didn't catch it, what was</p> <p>23 the date that you said the make-or-buy decision was</p> <p>24 made? Did you give a specific date?</p>

<p style="text-align: right;">278</p> <p>1 A. I think it was August 30, 1987, 2 Document 1. August 30th, 1987. 3 Q. And where do you get from this document 4 that the decision was made on that date? 5 A. It says, "The actions as to what to do 6 going forward." It basically says, "Sulfuric is 7 generating modest margin not covering indirect 8 costs, make versus buy analysis favors purchase of 9 smelter acid." 10 Q. Okay. I just wanted to know what your 11 basis for saying that this document shows you the 12 date that this decision was made? 13 A. It's the date the action planned -- the 14 title of the document is the Copley Sulfuric 15 Shutdown Action Plan. That's pretty self-evident. 16 MR. BELL: Thank you. 17 18 FURTHER DEPONENT SAITH NOT. 19 20 21 22 23 24</p>	<p style="text-align: right;">280</p> <p>1 STATE OF ILLINOIS) 2) SS: 3 COUNTY OF C O O K) 4 I, ELLEN DUSZA, a Notary Public within 5 and for the County of Cook, State of Illinois, and 6 a Certified Shorthand Reporter of said state, do 7 hereby certify: 8 That previous to the commencement of the 9 examination of the witness, the witness was duly 10 sworn to testify the whole truth concerning the 11 matters herein; 12 That the foregoing deposition transcript 13 was reported stenographically by me, was thereafter 14 reduced to typewriting under my personal direction 15 and constitutes a true record of the testimony 16 given and the proceedings had; 17 That the said deposition was taken 18 before me at the time and place specified; 19 That I am not a relative or employee or 20 attorney or counsel, nor a relative or employee of 21 such attorney or counsel for any of the parties 22 hereto, nor interested directly or indirectly in 23 the outcome of this action. 24 IN WITNESS WHEREOF, I do hereunto set my</p>
<p style="text-align: right;">279</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 NORTHERN DISTRICT OF ILLINOIS 3 EASTERN DIVISION 4 5 IN RE SULFURIC ACID) 6 ANTITRUST LITIGATION)MDL DOCKET NO. 1536 7 -----)CASE NO. 03 C 4576 8 THIS DOCUMENT RELATES TO:) 9 ALL RELATED ACTIONS) 10 I hereby certify that I have read the 11 foregoing transcript of my deposition given at the 12 time and place aforesaid, consisting of Pages 1 to 13 278, inclusive, and I do again subscribe and make 14 oath that the same is a true, correct and complete 15 transcript of my deposition so given as aforesaid, 16 and includes changes, if any, so made by me. 17 18 DEAN LARSON 19 SUBSCRIBED AND SWORN TO before me 20 this day of , A.D. 200 . 21 22 Notary Public 23 24</p>	<p style="text-align: right;">281</p> <p>1 hand and affix my seal of office at Chicago, 2 Illinois, this 18th day of July, 2005. 3 4 5 Notary Public, Cook County, Illinois. 6 My commission expires September 19, 2005 7 8 C.S.R. Certificate No. 84-3386. 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>